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Pro Se Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

Light Field Lab,

Plaintiff(s),

v.

Alan Jones,

Defendant.

) Case Number: 4:23-CV-05344-YGR

) **MOTION TO DISMISS AND**
) **COUNTERCLAIMS**

Unfortunately, I must begin with an apology. I am aware of my obligation under FRCP Rule 8(d)(1) and so strive to be concise. Inexperience, case and relevant law complexity, and the relevant law quantity make brevity, both of statements and overall, challenging.

I believe that the facts on the papers are sufficient to make a determination on the arguments contained within this motion. As such, I request that this motion be decided on the papers without oral arguments as per Fed. R. Civ. P. 78(b) "By rule or order, the court may provide for submitting and determining motions on briefs, without oral hearings." Further supported by N.D. Cal. Civ. L.R. 7-1(b) which states "In the Judge's discretion, or upon request by counsel and with the Judge's approval, a motion may be determined without oral argument or by telephone conference call."

FACTUAL BACKGROUND

1. *Legal Basis of Underlying Disagreement:* The disagreement which precipitated Plaintiff's complaint was an allegation of disability discrimination and retaliation. In order to evidence this claim, as required under FRCP 11(b)(3), Exhibit A has an email from the EEOC dated October 30th 2023, eleven days after Plaintiff first filed their case, setting up an interview appointment

with them for January 18th 2024. While this evidence does support that claim, it would be even more compelling should I supply a document providing evidence of the underlying claim from prior to their filing. I have such evidence available, but under the Federal Rules of Evidence Rule 408 I am unable to supply it without the court's permission. As such, I have attached a proposed order to allow my amending this motion with exhibits containing such evidence under FROE Rule 408(b) for the purpose of establishing the underlying disagreement. Precedent exists supporting this "The district court concluded that portions of the e-mails were admissible for permitted purposes, such as showing that Dr. King advised UHS that she had a claim for employment discrimination." *King v. Univ. Healthcare Sys.*, 645 F.3d 713, 720 (5th Cir. 2011) Should the order be granted, I would ensure that any financial information or aspects inadmissible under FROE Rule 408(a) are redacted.

2. *Defendant's Administrative Remedies Were and Are Not Exhausted:* Given the EEOC interview is not until January 18th 2024, and was not even booked at the time of Plaintiff's filing, it is impossible for Defendant to have exhausted their administrative remedies. There are also multiple possible outcomes from the administrative process. For an employee to pursue a lawsuit against an employer due to wrongful termination, they are legally required to exhaust administrative remedies. "[B]efore bringing suit under Title VII, a claimant must exhaust her administrative remedies." *Crowder v. Railcrew Xpress*, 557 Fed.Appx. 487, 491 (6th Cir. 2014); see 42 U.S.C. § 12117(a); 42 U.S.C. § 2000e-5(e)(1).

3. *Termination Caused Options Expiry and Vesting Cessation:* Termination was the cause for cessation of options vesting and set the time period in which options could be vested. As evidenced in Plaintiff's complaint, Dkt. No 1-14,16,21,22.

4. *All Potential Resolution Discussions Were Settlement Communications:* Prior to Plaintiff filing suit, any communications that may or may not have occurred with relation to any potential resolution of the underlying matters were settlement communications. As such, there were no statements made regarding any form of satisfactory resolution outside of settlement communications. Unfortunately, I cannot present something which does not exist as evidence to the court, however, this absence is relevant to later arguments.

1 5. *Plaintiff Seeks Relief to Protect Equity:* In their complaint Dkt. No 1, Prayer for Relief-4
 2 Plaintiff seeks to have the court declare that they have “no further or ongoing equity-related
 3 obligations to Jones.” Plaintiff further reveals this desire in Exhibit B (it contained its own
 4 exhibits, plan related documents, omitted for clarity), which is the release and covenant not to
 5 sue Plaintiff sent by email and referenced in Dkt. No 22-IV-C.

6 6. *Plaintiff Omits Wrongful Termination:* Plaintiff’s Dkt. No 1 complaint fails to make any
 7 mention of the underlying disagreement. Plaintiff further avoids identifying the underlying laws
 8 involved in their filing Dkt. No 22, despite referencing detail on other aspects of the issues raised
 9 in Dkt. No 21.

10 7. *Plaintiff Alleges Threats Without Specificity or Evidence:* Within Dkt. No 1, Plaintiff
 11 makes multiple allegations or references to a threat of litigation from myself, but all lack
 12 evidence, concreteness, and specificity; for example, no laws are cited, no particular acts, nor is
 13 the context of these alleged threats provided. Such as “Jones threatens to sue to obtain the equity
 14 interest in these shares.”, “Jones’s continued threats to sue.”, “further demands and threats from
 15 him”, and implicitly via “threatened litigation is also harmful”. Later, in Dkt. No 22 they
 16 reference emails and conversations, again without specificity as to the issues, and all
 17 communications referenced were privileged.

18 8. *Without Specificity or Evidence Plaintiff Claims Defendant Made Demands:* Similarly to
 19 their claim of threats, their claim of demands are equally vague, without evidence, specificity, or
 20 concreteness. For example “Jones’s demand for equity interests outside the Plan terms”, “Jones’s
 21 demands have a real, present and ongoing impact”, “an impossible choice: either give Jones what
 22 he demands”, “Jones claims a right to stock equity interests exceeding \$75,000.”, “Jones,
 23 however, asserts an entitlement to company stock equity interest”, “Jones asserts an entitlement
 24 to exercise”, “Jones’s assertion that he is entitled to stock equity interest”, “Jones’s insistence
 25 that he alone is exempt from the Plan”, and implicitly via “Jones breached the agreements.” They
 26 further these allegations in Dkt. 22. An important fact to note in considering this is stock options
 27 are not shares, acknowledged in Dkt. No 1-13, Plaintiff’s complaint, “Stock options are not
 28 stocks”.

1 9. *Plaintiff's Alleged Damages Lack Evidence, Concreteness, and Specificity:* The damages
2 Plaintiff claims in Dkt. No 1 as grounds for filing suit are either based on hypothetical actions
3 which there is nothing forcing them to take, or a purported fear of litigation and related costs.
4 They summarize these conclusory statements as such in Id. at 30 "Light Field Lab will face legal
5 uncertainty and the risk of financial harm".

6 10. *Plaintiff and Counsel Were Aware of Defendant's Disability:* Due to the underlying
7 disagreement being related to my disability, Plaintiff's counsel has been aware that I am disabled
8 and immunocompromised since they were first engaged by Plaintiff. While this timeframe
9 cannot be established with evidence at this time, as is required by FRCP Rule 11(b)(3), the
10 admission of evidence as requested in Fact 1 would provide the evidentiary support required to
11 make such a statement admissible under FRCP Rule 11(b)(3). However, their awareness of my
12 being immunocompromised is additionally supported as it was stated in the email thread Exhibit
13 C and the filings Plaintiff has been served in Dkt. No 9 (through direct statement of being
14 immunocompromised) and Dkt. No 12 (through statement of being a Type 1 Diabetic and the
15 acute health risk of attending in person).

16 11. *Plaintiff and Counsel Were Aware of Defendant's Isolating:* Plaintiff's counsel is and
17 was aware that I am isolating in order to protect my health (due to being immunocompromised as
18 a result of my disability). This was communicated by my prior counsel and by myself including
19 forwarding communication I sent my prior counsel to Plaintiff's counsel. This is evidenced by
20 my referencing health risks of in person attendance in Dkt. No 12, which Plaintiff did not
21 challenge, and further evidenced by an email thread in Exhibit C, which as can be seen were sent
22 on October 26th, the day after their first personal attempt at service and only one week after their
23 initial complaint was filed.

24 12. *Plaintiff Refused to Provide Waiver of Service:* Also referenced in Dkt. No 9 and further
25 evidenced in Exhibit C, Plaintiff refused to provide a waiver of service despite being aware that I
26 am immunocompromised due to my disability (Fact 10) and isolating (Fact 11).

1 13. *Plaintiff Alleged Evasion of Service:* In Dkt. No 17 Plaintiff claims I evaded service. This
2 was filed on November 28th 2023, thirty-three days after they were informed that I was not
3 evading service, but isolating due to being immunocompromised as a result of my disability.

4 14. *Plaintiff Alleged Police Involvement in Service:* In Dkt. No 17, Plaintiff claims police
5 were involved in the serving of process, but fails to give specificity sufficient to determine the
6 intended meaning of involved, provides no evidence of involvement, nor do they establish their
7 claim's relevance to the facts of the case.

8 15. *Plaintiff Implied Causality Between Alleged Police Involvement and Appearance:* Also in
9 Dkt. No 17, Plaintiff implies causality between the alleged police involvement and my
10 appearance by placing them in close proximity; the same sentence separated only by a comma.
11 As previously mentioned, this was filed on November 28th 2023. That is fifteen days after they
12 were made aware through my statements in Dkt. No 9 that I appeared as a result of their process
13 servers' "increasingly flagrant violations of Washington State law regarding valid service."

14 16. *Process Server is Plaintiff's Agent:* As it relates to multiple arguments and counterclaims,
15 it is important to establish that in engaging a process server Plaintiff is liable for the process
16 server's actions. See *Dale v. ITT Life Ins. Corp.*, 207 Cal. App. 3d 495, 501-02 (Cal. App. 4
17 Dist. 1989) (holding that a process server hired by a plaintiff is the plaintiff's agent, and the
18 plaintiff is responsible for the process server's acts)

19 17. *Process Server Engaged in Trespass, Intimidation, and Harassment:* Plaintiff's process
20 server trespassed on my property other than to go to the front door, invaded privacy by shining
21 lights into the residence, while wearing a bulletproof vest and firearm. This is evidenced in
22 Exhibit D showing the process server pointing a flashlight into the property, while wearing a
23 bulletproof vest and firearm, in a location only reachable by either climbing the deck or
24 trespassing around the back of the house, up to the back door, and walking along the deck.
25 Process servers also engaged in prolonged surveillance, which is more challenging for me to
26 evidence here, but under FRCP 11(b)(3) I do believe that as process servers typically charge for
27 mileage and hours, they would have provided documentation of the scope of their surveillance in
28 order to provide reports and invoice the Plaintiff, which should be evidenced during discovery.

LEGAL ARGUMENTS

Within this motion, I will be setting out multiple arguments as to why Plaintiff's claims should be dismissed, which is allowed under Fed. R. Civ. P. 8(d)(3) "A party may state as many separate claims or defenses as it has, regardless of consistency."

Under Fed. R. Civ. P. 8(d)(2) "A party may set out 2 or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient." As such, if any of the defenses presented here is sufficient for dismissal, then the pleading is sufficient. Alternatively stated and logically equivalent, in order for this pleading to be insufficient all defenses presented within this pleading must be insufficient.

Also, as I am Pro Se, there is the possibility my language and explanation may not be in the form or language to which the court is accustomed. I hope that should I fall short in some way my pleadings be understood as per Fed. R. Civ. P. 8(3)'s statement "Pleadings must be construed as to do justice," which is all I seek.

Rule 12(b)(1) allows a party to challenge a federal court's subject matter jurisdiction. As the party invoking subject matter jurisdiction of the federal court, the plaintiff bears the burden of establishing that the Court has the requisite subject matter jurisdiction to grant the relief requested. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). A complaint will be dismissed if, looking at the complaint as a whole, it appears to lack federal jurisdiction either "facially" or "factually." *Thornhill Publ'g Co., Inc. v. Gen. Tel. & Elecs. Corp.*, 594 F.2d 730, 733 (9th Cir. 1979); see also *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004) ("A Rule 12(b)(1) jurisdictional attack may be facial or factual.").

A challenge to subject matter jurisdiction is a factual attack when the moving party relies on extrinsic evidence and does not assert a lack of subject matter jurisdiction solely based on the pleadings. *Safe Air for Everyone*, 373 F.3d at 1039. "In resolving a factual attack on subject matter jurisdiction, the district court may review evidence beyond the complaint without converting the motion to dismiss into a motion for summary judgment." *Id.* (citing *Savage v. Glendale Union High Sch.*, 343 F.3d 1036, 1039 n.2 (9th Cir. 2003)).

1. LACK OF RIPENESS

To show its claims are ripe, a plaintiff must establish that its claims do not "rest[] upon contingent future events that may not occur as anticipated, or indeed may not occur at all" Scott v. Pasadena Unified Sch. Dist., 306 F.3d 646, 656, 662 (9th Cir. 2002) (citations and quotation marks omitted).

Due to Facts 1 and 2, it is impossible for Plaintiff to establish ripeness until Defendant has exhausted all administrative remedies, and, even then, would require some act indicating an intention to sue made after they were exhausted. That is a future event, which has multiple potential outcomes, may or may not occur, and would still leave room for an employee to make a decision as to what they wish to do after completion. As such, Plaintiff's claims not only are unripe, but it is impossible with the facts as they were at the time of filing, or currently are, for them to meet ripeness. As such, their claim should be dismissed.

2. LACK OF STANDING

To establish Article III standing, a plaintiff must show: (1) the existence of an injury-in-fact that is concrete and particularized, and actual or imminent; (2) the injury is fairly traceable to the challenged conduct; and (3) the injury is likely to be redressed by a favorable court decision. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992). To demonstrate standing at the pleading stage, "the complaint must allege sufficient facts plausibly establishing each element of the standing inquiry." Native Vill. of Kivalina v. ExxonMobil Corp., 696 F.3d 849, 867 (9th Cir. 2012)

Given Facts 7, 8, and 9 Plaintiff's complaint fails all of (1). Actual or imminent is also failed due to Fact 2. Due to the failure of (1), (2) also fails. (2) additionally fails per Fact 9. Redressability, (3) also fails due to Fact 1 and Fact 5 as the remedy they seek does not address the legal uncertainty as it fails to address the matter of whether the termination was wrongful. Failure of any of the three makes their argument insufficient to establish Article III standing, as such dismissal is appropriate for each individually.

3. DECLARATORY JUDGMENT ACT

Under the Declaratory Judgment Act, "A party seeking standing has the burden of proving three necessary elements: (1) "injury in fact" — an invasion of a legally protected interest that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *Neuse River Found., Inc. v. Smithfield Foods, Inc.*, 155 N.C. App. 110, 114, 574 S.E.2d 48, 52 (2002), review denied, 356 N.C. 675, 577 S.E.2d 628 (2003) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560, 119 L. Ed. 2d 351, 364 (1992))."

These requirements are very similar to those of standing, and it fails for the similar reasons. Given Facts 7, 8, and 9, all aspects of (1) fail. Actual or imminent is also failed due to Fact 2, which additionally fails on conjectural or hypothetical as there are multiple potential resolutions for administrative remedies; Furthermore, it is unknown what an employee will decide after their administrative remedies have been exhausted. Due to the failure of (1), (2) also fails. (2) additionally fails per Fact 9. Redressability, (3) also fails due to Fact 1 and Fact 5 as the remedy they seek does not address the legal uncertainty as it fails to address the legal uncertainty of whether the termination was wrongful. Failure of any of the three makes their argument insufficient to warrant a Declaratory Judgment, as such Plaintiff is not entitled to seek Declaratory Judgment under the act and their claim should be dismissed.

4. FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

"Federal Rule of Civil Procedure 8(a) requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief[.]" A defendant may move to dismiss a complaint for failing to state a claim upon which relief can be granted under Federal Rule of Civil Procedure 12(b)(6). "Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory." *Mendondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008).

"[A] complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations"; however, "a plaintiff's obligation to provide the "grounds" of his "entitle[ment] to

relief" requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Twombly, 550 U.S. at 555-56. To survive a Rule 12(b)(6) motion, a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)."

Facts 2, 6, 7, 8 are incapable of forming a legal theory under which relief can be granted; which is apparent from the demonstration of its failures in arguments 1-3. As such, Plaintiff's claim should be dismissed under FRCP 12(b)(6).

5. FEDERAL RULES OF EVIDENCE 408(a) VIOLATION

I am unable to make assertions as to the specifics of why I claim that I did not demand shares due to FROE 408(a) which prohibits me from requesting settlement communications classified under FROE 408(a)(1) be introduced for the purposes of impeachment.

Given Fact 4, the only potential source for Plaintiff's counsel's allegations in Facts 6 and 7 could be settlement communications. In Dkt. No 22, Plaintiff further sought to substantiate their claim of threat to sue through referencing documents that could only be settlement communications, a purpose clearly barred under FROE 408(a)(1).

Rule 12(f) of the Federal Rules of Civil Procedure provides that "[t]he court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Although Rule 12(f) is not premised on inadmissibility, a court "may strike ... statements as immaterial and/or prejudicial [from a complaint] if those statements would be inadmissible at trial." Collier v. Boymelgreen Devs., No. 06CV5425(SJ), 2008 WL 835706, at *10 (E.D.N.Y. Mar. 28, 2008).

Based on this, I request that the court strike any statements which Plaintiff is unable to substantiate through evidence without the use of settlement communications. Given there was never any demand for shares, they will be unable to do so with or without communications barred under FROE 408(a)(1). If their claim is not dismissed, Plaintiff could see if the court would allow privilege to be waived as there is some ambiguity in case law as to whether 408(a)(1) can be waived. However, such a finding is highly unlikely, see Baptiste v. Rohn, Civil Action No. 2013-0104 (D.V.I. Mar. 29, 2016) and Alpex Computer Corp. v. Nintendo Co., 770

1 F. Supp. 161 (S.D.N.Y. 1991). However, I would welcome the decision regardless of whichever
2 way the court may rule.

3 Plaintiff's current statements are too general to prove actual controversy, they acknowledge
4 their alleged evidence is inadmissible (Dkt. No 22-IV-B-1), yet they're happy to ignore FROE
5 408 while making vague statements in order to create the facial appearance of sufficiency (Dkt.
6 No 22-II-2). Plaintiff's conduct suggests contempt for the rules of evidence and fails to meet
7 their burden to establish actual controversy. This alone is sufficient for their claim to be
8 dismissed.

9 **6. FEDERAL RULES OF CIVIL PROCEDURE 11(b)(3)**

10 Fed. R. Civ. P. 11(b) ("Representations to the Court. By presenting to the court a pleading,
11 written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an
12 attorney or unrepresented party certifies that to the best of the person's knowledge, information,
13 and belief, formed after an inquiry reasonable under the circumstances:

14 (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary
15 delay, or needlessly increase the cost of litigation;

16 (2) the claims, defenses, and other legal contentions are warranted by existing law or by a
17 nonfrivolous argument for extending, modifying, or reversing existing law or for establishing
18 new law;

19 (3) the factual contentions have evidentiary support or, if specifically so identified, will likely
20 have evidentiary support after a reasonable opportunity for further investigation or discovery")

21 (4) the denials of factual contentions are warranted on the evidence or, if specifically so
22 identified, are reasonably based on belief or a lack of information.

23 Richter v. Oracle Am., 22-cv-04795-BLF, at *4 (N.D. Cal. June 15, 2023) ("In the Ninth
24 Circuit, Rule 11 sanctions are appropriate where: (1) attorneys make or use a court filing for an
25 improper purpose; or (2) such a filing is frivolous. See Townsend v. Holman Consulting Corp.,
26 929 F.2d 1358, 1362 (9th Cir. 1990) (en banc); see also Christian v. Mattel, Inc., 286 F.3d 1118,
27 1127 (9th Cir. 2002). A "frivolous" argument or claim is one that is "both baseless and made
28 without a reasonable and competent inquiry." Townsend, 929 F.2d at 1362.")

1 Facts 13, 14, and 15 have no claim as to why they are relevant to the case and could cause
2 prejudice towards myself. As such, it appears that it may have been presented for an improper
3 purpose.

4 As stated in Lack of Standing, redressability fails, which, given it means the relief sought
5 doesn't match the damages claimed, and the omission of key details which supported that, it is
6 also clear that the complaint's purpose itself is improper.

7 In Dkt. No 1-13, Plaintiff's complaint, Plaintiff indicates that stock options and shares are not
8 the same - "Stock options are not stocks". Given that at no times were shares demanded in any
9 communications, there can be no possibility, let alone likelihood, that such evidentiary support
10 would ever appear with or without evidence barred under FROE 408(a). As such, the
11 introduction of that claim, in addition to violating FROE 408(a) is therefore a violation of FRCP
12 Rule 11(b)(3). Fact 13 is also a violation of FRCP Rule 11(b)(3) due to Fact 11 and that a waiver
13 had been requested.

14 Due to Facts 1, 2, 3, 5, and 6, it is clear that Plaintiff's claims fail FRCP 11(b)(1, 2, and 3).
15 Plaintiff omits material information which would make it clear their complaint fails to meet
16 threshold requirements and seeks relief such that I alone would be exempt of the benefits of the
17 plan should an investigation find that my termination was wrongful. A reasonable and competent
18 inquiry would have revealed any prosecution prior to exhaustion of administrative remedies to be
19 baseless. These proceedings also delay, through interference of my time, with my ability to
20 exercise those rights which will eventually result in the statute of limitations running out,
21 assuming that the date of termination is considered the last act, denying me the possibility to
22 exercise those rights. As such, I request that the court exercise its inherent power and dismiss the
23 Plaintiff's claim.

24 **7. LACK OF PROSECUTION**

25 The court has the "inherent power" to control its docket and may "impose sanctions,
26 including dismissal, in the exercise of that discretion." *Olivia v. Sullivan*, 958 F.2d 272, 273 (9th
27 Cir. 1992). Further, pursuant to Rule 41(b), dismissal with prejudice is appropriate when a
28 plaintiff fails to prosecute an action. Fed.R.Civ.P. 41(b). The court must weigh five factors

1 before dismissing for failure to prosecute: “1) the public's interest in the expeditious disposition
2 of cases; 2) the court's need to manage its docket; 3) the risk of prejudice to the defendants; 4)
3 the judicial policy favoring disposition of cases on their merits; and 5) the availability of a less
4 drastic sanction.” *Moshin v. Cal. Dept. Water Resources*, 52 F.Supp.3d 1006 (9th Cir. 2014)
5 (citing *Yourish v. California Amplif er*, 191 F.3d 983, 990 (9th Cir. 1999)). Although dismissal
6 is a harsh penalty and should not be imposed unless “extreme circumstances” exist (*Thompson v.*
7 *Housing Authority*, 782 F.2d 829, 831 (9th Cir. 1986)).

8 Under the Federal Rules of Civil Procedure Rule 7.1(a)(2), all parties must f le a disclosure
9 statement. Similarly, under Civil Local Rule 3-15, all parties must f le a certif cate of interested
10 entities or persons. Plaintiffs are required to f le these documents with their initial f ling. Over
11 eight weeks ago. Plaintiff has highly experienced attorneys and even after I filed the required
12 disclosures on December 4th 2023, they have still failed to. Though they clearly had time as they
13 were able to prepare Dkt. No 22 in that period. Yet they still fail to enter these mandatory f lings.

14 I believe the f ve matters are for the court’s judgment, as such I would only mention that any
15 risk of prejudice is entirely the result of Plaintiff ’s inaction in the circumstances described above.
16 One of the purposes of the missing documents is to ensure a fair trial. As such, having that
17 disclosure is critical; made even more so through the location of the jury pool and the likely
18 sizable number of persons and entities who have interest and the reasonable possibility they
19 could have connections to potential jurors. It seems reasonable to consider failing to take action
20 to ensure a defendant receives a fair trial as an extreme circumstance. It is hard to imagine
21 something more extreme in a justice system than denying fairness. As such, I request their claim
22 be dismissed for a lack of prosecution.

23 Additionally, I request that, under Civil Local Rule 7-11, the attached proposed order
24 compelling these disclosures be granted, whether or not the case is dismissed for this or any
25 other reason, as to ensure fairness of the remaining proceedings. Precedent exists for this, though
26 in the cited case the party was a defendant the rules apply to all parties, see *Stewart v. Screen*
27 *Gems-EMI Music, Inc.*, No. 14-cv-04805-JSC, at *3-4 (N.D. Cal. Jan. 13, 2015) (“a defendant
28 does not have the discretion to decide whether to comply with Rule 7.1 and the Local Rule. The

1 language of the Rules is mandatory. If a defendant could decide for itself whether to comply then
2 the purpose of the Rules would be lost. *CRS Recovery, Inc. v. Laxton*, No. C 06-7093 CW, 2008
3 WL 4408001, *1 (N.D. Cal. Sept. 26, 2008)").

4 **8. MOOTNESS**

5 Article III of the United States Constitution limits the jurisdiction of federal courts to live
6 "Cases" or "Controversies." See U.S. Const. art. III, § 2, cl. 1. "The doctrine of mootness, which
7 is embedded in Article III's case or controversy requirement, requires that an actual, ongoing
8 controversy exist at all stages of federal court proceedings." *Pitts v. Terrible Herbst, Inc.*, 653
9 F.3d 1081, 1086-87 (9th Cir. 2011) (citing *Burke v. Barnes*, 479 U.S. 361, 363 (1987)). The
10 Supreme Court has described mootness as "the doctrine of standing set in a time frame: The
11 requisite personal interest that must exist at the commencement of the litigation (standing) must
12 continue throughout its existence (mootness)." *Arizonans for Official English v. Arizona*, 520
13 U.S. 43, 68 n.22 (1997).

14 For the same reasons the case is unripe and lacks standing, the case is, and always has been,
15 moot. The facts upon which the case lacks standing have not changed and therefore, it has
16 always been moot. The lack of controversy is further substantiated by my acknowledgment in
17 Dkt. No 21 that "I have no intention of litigating the underlying issue I brought to them of my
18 belief that I was the victim of disability discrimination and retaliation."

19 No matter how much Plaintiff may wish it to be true in order to try substantiate this case as
20 justifiable, I cannot even have that intention because my administrative remedies are not yet
21 exhausted. Additionally, morally I only wish for that to which I'm justly entitled and I have the
22 right to assert so without interference in administrative remedies. If wrongful termination did not
23 occur, then the timeframes for exercise are clear as per Fact 3. Unless my termination were to be
24 determined to be lawful, my administrative remedies exhausted, a right to sue issued, and I were
25 to indicate an intent to or to commence proceedings against Plaintiff, none of which have
26 occurred nor is there certainty they ever will, their suit is moot. As such their claim should be
27 dismissed.
28

COUNTERCLAIMS

1. ABUSE OF PROCESS

Abuse of process is illuminated in *Lunsford v. American Guarantee Liability Ins. Co.*, 18 F.3d 653, 655 (9th Cir. 1994) through their comparison of abuse of process and malicious prosecution. “Abuse of process differs from malicious prosecution in that the gist of the tort is not commencing an action or causing process to issue without justification, but misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish.”

The elements of abuse of process are stated in *Spellens v. Spellens*, 49 Cal.2d 210, 232-233 [317 P.2d 613]: “The essential elements of abuse of process, as the tort has developed, have been stated to be: first, an ulterior purpose, and second, a wilful act in the use of the process not proper in the regular conduct of the proceeding. Some definite act or threat not authorized by the process, or aimed at an objective not legitimate in the use of the process”

Ulterior purpose can be established through the lack of redressability (as per Lack of Standing arguments). The willful act aspect is established through Fact 6, the lack of justiciability of their claims on many grounds yet their claims being brought none the less, and is exceptionally well captured, along with additional evidence of ulterior purpose, in Exhibit B, the release and covenant not to sue Plaintiff references in Dkt. No 22. The key aspects of that document are Light Field Lab will dismiss claims if Defendant agrees to waive their rights under the plan and with those rights waived Plaintiff has no issue with their exercising their wrongful termination rights.

Plaintiff claims in Dkt. No 1 “Light Field Lab contends that Jones has no rights under the express terms of the Plan Documents.”, which due to Fact 1 can only be true if defendant’s termination was lawful. In that circumstance, the waiving of rights Plaintiff requests from Defendant in order to cease litigation, which is effectively identical to the relief they seek from the court, can not possibly have any effect on Plaintiff’s liability in an administrative action investigation. Why, then, is Plaintiff going to such lengths to have action taken to alter my rights under the plan documents if they also believe such alteration would have no effect?

2. RETALIATION

Under 29 U.S.C. § 215(a)(3) it is unlawful "to discharge or in any other manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter."

"it needs no argument to show that fear of economic retaliation might often operate to induce aggrieved employees quietly to accept substandard conditions." *Mitchell v. DeMario Jewelry*, 361 U.S. 288, 292 (1960)

"Section 704 of Title VII prohibits retaliation against an employee for opposing unlawful discrimination." *McGinest v. GTE Service Corp.*, 360 F.3d 1103, 1124 (9th Cir. 2004). "To establish a prima facie case of retaliation under Title VII, [Cloud] must show 1) that [she] acted to protect [her] Title VII rights; 2) that an adverse employment action was thereafter taken against [her]; and 3) that a causal link existed between the two events." *Id.*

The first aspect is evidenced by Fact 1. The second element is evidenced by Dkt. No 1 and indeed the existence of these proceedings as lawsuits can be considered a retaliatory act as per *United States v. Wagner*, 940 F.Supp. 972, 978-80 (N.D.Tex. 1996) (holding that a lawsuit can be a retaliatory action giving rise to a § 3617 claim). The final element, causality, is shown through the arguments which established abuse of process and so does not bear repeating here.

3. FRAUD UPON THE COURT

Under the Federal Rules of Civil Procedure 60(b) a party may be granted relief from a proceeding on the grounds of fraud, misrepresentation, or misconduct by an opposing party.

Fed. R. Civ. P. 60 ("(b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

...

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

")) (Sections (b)(1), (b)(2), and (b)(4-6) omitted)

Haeger v. Goodyear Tire & Rubber Co., 813 F.3d 1233, 1245 (9th Cir. 2016) held “that the ‘end result of the scheme was to undermine the judicial process, which amounts to fraud upon the court.’ (Pumphrey v. K.W. Thompson Tool Co., 62 F.3d 1128 (9th Cir. 1995) citing Hazel–Atlas Glass Co. v. Hartford–Empire Co., 322 U.S. 238, 245–46, 250, 64 S.Ct. 997 (1944) (deliberately planned scheme to present fraudulent evidence constitutes fraud upon the court); Abatti v. C.I.R., 859 F.2d 115, 118 (9th Cir. 1988) (fraud upon the court involves unconscionable plan or scheme to influence the court improperly)).”

Counterclaim 1 discussed Plaintiff’s material omissions and misrepresentations to the court (as the purpose is a representation to the court, the fact alone of the true purpose being another proves it as misrepresentation), they also stand as arguments for fraud upon the court.

4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

The elements of intentional infliction of emotional distress are: “(1) outrageous conduct by the defendant; (2) the defendant's intention of causing or reckless disregard of the probability of causing emotional distress; (3) the plaintiff's suffering severe or extreme emotional distress; and (4) actual and proximate causation of the emotional distress by the defendant's outrageous conduct.” Fletcher v. W. Nat'l Life Ins. Co., 10 Cal. App. 3d 376, 394 (1970).

“A defendant's conduct is ‘outrageous’ when it is so extreme as to exceed all bounds of that usually tolerated in a civilized community.” Hughes, 109 P.3d at 976. “Behavior may be considered outrageous if a defendant (1) abuses a relation or position which gives him power to damage the plaintiff's interest; (2) knows the plaintiff is susceptible to injuries through mental distress; or (3) acts intentionally or unreasonably with the recognition that the acts are likely to result in illness through mental distress.” Molko v. Holy Spirit Assn., 762 P.2d 46, 63 (Cal. 1988) (en banc), superseded on other grounds by statute.

“Severe emotional distress means emotional distress of such substantial quality or enduring quality that no reasonable person in civilized society should be expected to endure it.” Hughes, 109 P.3d at 976” Wescott v. Beresford Corp., 22-cv-00067-JSC, at *12 (N.D. Cal. Apr. 8, 2022)

Just as the coercive power of fear of economic retaliation needs no argument, nor does the emotional distress the enacting of such retaliation need one. Not only is the case itself able to

1 induce this, but Plaintiff further weaponized my disability to ensure every action they took in this
 2 maximized the threat to my health and Plaintiff's coercive power. See Facts 6, 12, 17. Being
 3 sued for asserting Title VII protected rights is illegal, as discussed in retaliation; that alone makes
 4 just that aspect obviously meet the severe and outrageous standard. The additional conduct goes
 5 far beyond that and is plainly not "merely" outrageous, but vile and egregious.

6 **5. HARASSMENT**

7 Flowers v. Southern Regional Physician Serv, 247 F.3d 229, 234-35 (5th Cir. 2001)
 8 ("existing decisions by the courts of appeals that have considered this issue evidence that a claim
 9 for disability-based harassment is cognizable under the ADA, and several district courts have
 10 already confirmed that such a cause of action exists. Accordingly, because Title VII has been
 11 extended to hostile work environment claims, we follow the growing consensus that our
 12 harassment jurisprudence be extended to claims of disability-based harassment. As such, we find
 13 that a cause of action for disability-based harassment is viable under the ADA")

14 Flowers v. Southern Regional Physician Serv, 247 F.3d 229, 235-36 (5th Cir. 2001) ("A
 15 cause of action for disability-based harassment is "modeled after the similar claim under Title
 16 VII." McConathy v. Dr. Pepper/Seven Up Corp., 131 F.3d 558, 563 (5th Cir. 1998).
 17 Accordingly, to succeed on a claim of disability-based harassment, the plaintiff must prove:

18 (1) that she belongs to a protected group; (2) that she was subjected to unwelcome
 19 harassment; (3) that the harassment complained of was based on her disability or disabilities; (4)
 20 that the harassment complained of affected a term, condition, or privilege of employment; and
 21 (5) that the employer knew or should have known of the harassment and failed to take prompt,
 22 remedial action.")

23 Harassment exists independently from the retaliation claim and intentional infliction of
 24 emotional distress because many of the acts committed were chosen to specifically target that my
 25 disability leaves me immunocompromised. Facts 10, 11, 12, 16, and 17, and even this suit (as
 26 there is no possibility of a broad waiver from all elements which usually require an in-person
 27 attendance and the travel alone would force me to expose myself to significant risk), demonstrate
 28 Plaintiff sought to target and exploit this.

Fact 1 establishes (1) my protected group membership. The facts mentioned in the prior paragraph establish (2), (3), and (5). The arguments for abuse of process establish (4) with the privilege the rights afforded by the plan documents.

Given Facts 10, 11, 16, and 17, these actions also count as harassment under Wash. Rev. Code § 9A.46.020(1)(a)(iv) "Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical health or safety;"

6. BANE ACT VIOLATION

The Bane Act (Civ. Code, § 52.1) authorizes a civil action "against anyone who interferes, or tries to do so, by threats, intimidation, or coercion, with an individual's exercise or enjoyment of rights secured by federal or state law." (Jones v. Kmart Corp. (1998) 17 Cal.4th 329, 331, 70 Cal.Rptr.2d 844, 949 P.2d 941 (Jones).)

To substantiate a Bane Act violation one must show "(1) intentional interference or attempted interference with a state or federal constitutional or legal right, and (2) the interference or attempted interference was by threats, intimidation or coercion." (Allen v. City of Sacramento (2015) 234 Cal.App.4th 41, 67 (Allen).)

Facts 1, 3, and 5 establish the various rights underlying the disagreement and the manner in which Plaintiff bringing this action interferes. The suit itself and the manner in which the acts involved have been carried out are already covered in this pleading and clearly demonstrate that their conduct involved not just threats, intimidation, or coercion, but all three. As such, Plaintiff's conduct violates the Bane Act and I request the court rule as such.

PRAYER FOR RELIEF

1. DISMISS PLAINTIFF'S CLAIM

Independently per each of the causes provided within this motion, I request the court dismiss Plaintiff's claims with prejudice and bar them from any claim as to costs incurred or any other remedy or relief which they may seek in relation to this matter.

In further support that awarding their fees would be inappropriate, given the underlying matter is related to wrongful termination we can look to cases where the party accused of having infringed civil rights is the defendant. Given the peculiar circumstance of this case where the

1 usual role of plaintiff and defendant are reversed, due to Plaintiff's choice to attempt to
2 preemptively litigate away potential liability, we must bear in mind the roles are reversed in the
3 below.

4 Summers v. A. Teichert Son, Inc., 127 F.3d 1150, 1154 (9th Cir. 1997) ("attorney's fees
5 should be granted to a defendant in a civil rights action only "upon a finding that the plaintiff's
6 action was frivolous, unreasonable, or without foundation." Christiansburg Garment Co. v.
7 EEOC, 434 U.S. 412, 421 (1978).")

8 Bringing this action was unlawful on many grounds argued in this pleading, and as such
9 Plaintiff is not entitled to their costs, though even should that be ignored Plaintiff should still be
10 held to the same standard as if they were an accused defendant in a civil rights action. Plaintiff
11 has not even acknowledged the underlying issues, let alone proven that questions as to the
12 lawfulness of my termination were meritless, and therefore could not be reasonably granted costs
13 on those grounds also.

14 Finally, with relation to dismissal, given the usual timeframe for providing an answer if
15 dismissal is denied is only two weeks and I am Pro Se with no prior experience; I request that in
16 the (I would hope extremely unlikely given the number of threshold issues which this fails upon)
17 event that dismissal is denied, I be given a much longer timeframe to prepare a full answer.
18 While I want this addressed and gone quickly, I have had to take around half the time I should
19 have been working off as well as all of my weekends and evenings. This is unsustainable and
20 may result in my loss of employment in addition to the extreme harm it is causing to my health.

21 **2. DECLARE LITIGATING THIS SUIT AS RELATED TO MY TERMINATION**

22 As mentioned previously, I am required to exhaust administrative remedies prior to bringing
23 a wrongful termination suit and I desire to access administrative remedy rather than litigate. As
24 such I do not wish to, may or may not be allowed to, and therefore am not, filing any
25 counterclaim that relate to the underlying matters. The only matters I am bringing counterclaim
26 in relation to are the unlawfulness of Plaintiff bringing this suit and the consequential
27 unlawfulness of all acts involved in doing so. To ensure that is clear, all claims within this filing
28

1 would not exist had the Plaintiff not initiated this suit and I am leaving the prior matters to be
2 investigated administratively as I wish and am required to do.

3 However, given this suit interferes with my ability to exercise those rights due to its impact
4 upon potential outcomes of administrative remedies and the previously mentioned demand it
5 places upon my time, I request the court declare the filing of this suit was in response to my
6 complaint of wrongful termination and should be considered part of Plaintiff's actions in relation
7 to my termination.

8 I believe that the facts contained in this filing sufficiently support that conclusion. In order to
9 prevent this case from impacting my access to administrative remedies, I request the court also
10 declare these acts impact the timeframe for statute of limitations in relation to actions regarding
11 my termination. Specifically, that the court declare the statute of limitations timeframe does not
12 begin until all matters in this case have been ruled upon and the case closed and that any
13 subsequent appeals or legal action shall be treated the same.

14 **3. CONVENE A JURY TO DETERMINE DAMAGES**

15 "Damages for emotional distress are inextricably related to the conduct causing that distress.
16 The more aggravated the conduct, the larger the award of damages is likely to be." *Kardly v.*
17 *State Farm Mut. Auto. Ins.*, 255 Cal. Rptr. 40, 43 (Ct. App. 1989). For this reason, "[t]he amount
18 and severity of damages for emotional distress is a question of fact for the jury [or court] to
19 decide based on all the evidence before it." *Id.* Although "the amount of damages must be
20 reasonable," there "is no fixed or absolute standard by which to compute [them]." *Plotnik v.*
21 *Meihaus*, 146 Cal. Rptr. 3d 585, 596 (Ct. App. 2012) (quoting *Hope v. Cal. Youth Auth.*, 36 Cal.
22 Rptr. 3d 154, 169 (Ct. App. 2005)).

23 Given the extreme nature of Plaintiff's actions in unlawfully bringing this litigation, the
24 profound impact it had, continues to have, and likely will continue to have upon my mental and
25 physical health, the impact upon my loved ones, and the challenges in separating my harm and
26 suffering from theirs, as empathy means their suffering affects me also, I believe myself too
27 emotionally compromised to determine appropriate monetary damages. As such under Fed. R.
28 Civ. P. 38 I request a jury be convened for the purpose of determining appropriate damages.

The single recovery doctrine requires that the same damages are not recovered multiple times. As such, it is appropriate that emotional damages be awarded a single time regardless of the number of laws violated in which emotional damages are recovered. Punitive damages are intended to have a deterrent effect. Single recovery would further suggest that multiple violations of the one law should not result in multiple recovery of punitive damages under that law. The act of making punitive damages available in any given statute implicitly declares those damages just. In the case of multiple laws with punitive damages available being violated, treating them as a single award would undermine deterrence. This would be a strong incentive for would be violators to treat an illegal act as an all-you-can-violate buffet. In order to balance the risk of excessive award against the need for punitive damages to be an effective deterrent, I request that the compensatory damages be determined holistically for all claims, and punitive damages be determined per law breached for which punitive damages are available.

The damages for which I seek to have the jury determine monetary award and any other such award they may justly grant for:

- Compensatory Damages for Pain and Suffering (Abuse of Process, Intentional Infliction of Emotional Distress, Harassment)
- Punitive Damages (Abuse of Process)
- Punitive Damages (Intentional Infliction of Emotional Distress)
- Punitive Damages (Harassment)
- Punitive Damages (Bane Act)
- Treble Damages (Bane Act)
- Any other such damages as I may be justly entitled to based on the court's rulings

4. STATEMENT WITH RELATION TO DEFENSE SCOPE

The Senate stated that "[i]f private citizens are to be able to assert their civil rights, and if those who violate the Nation's fundamental laws are not to proceed with impunity, then citizens must have the opportunity to recover what it costs them to vindicate these rights in court." Senate Rpt. 94-1011, 1976 U.S.Code Cong. Admin.News 5908, 5910.

I am aware that Pro Se defendants are not allowed to recovery attorney fees for their time spent defending themselves. See *Trope v. Katz*, 11 Cal.4th 274 (Cal. 1995) and many others.

I understand the reasoning for this and without looking at the broader issues of this case, it seems to clash with the Senate's statement above. Just because the cost was non-f nancial, does not mean it did not cost me to prepare this defense. However, should my claim of vexatious litigation be granted, then I am entitled to compensation for the physical and emotional damage incurred. The increased severity of those damages due to having to represent oneself provide balance to what otherwise would seem to prevent a Pro Se defendant from recovering what it cost them as the Senate intends.

In order to enable a jury to fairly evaluate the ef ort expended in preparing a defense such as mine, I request the court either provide their opinion as to the scope and ef ort such a preparation would involve, or appoint an expert the court considers appropriate for the purpose of providing this. This would enable the jury to more impartially determine the physical and emotional damages without relying solely on my testimony of the effort involved and subsequent physical and emotional impact. Should the court not grant this, I request they provide criteria by which I could determine who qualifes as an expert witness to such a matter so that I may procure an af davit which provides such an estimation to enter into evidence.

5. DECLARE PLAINTIFF A VEXATIOUS LITIGANT

Defendants move the court to sanction plaintiff under 28 U.S.C. § 1927. Def Mem (Doc # 11) at 17. "Any * * * person * * * who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct." 28 U.S.C. § 1927. "Section 1927 sanctions require a bad faith showing." *West Coast Theater Corp v. City of Portland*, 897 F.2d 1519, 1526 (9th Cir 1990).

Given, as demonstrated in the ripeness argument and many others, this case could never have met threshold issues, clearly all f lings Plaintiff filed are vexatious. The arguments for Abuse of Process demonstrate bad faith. Additionally, even if Plaintiff believed they could lawfully have brought this case, I stated I had no intention of litigating the underlying matter and wished to

1 exhaust my administrative remedies in Dkt. No 21. Not only was Plaintiff served this document,
 2 and thus aware the case was undeniably moot, they even remarked upon this and sought to use it
 3 to coerce me into providing them the very remedy they unlawfully sought from the court by
 4 bringing this case. While clearly, due to time limits they needed to file a response, they did so
 5 without first filing a motion to dismiss; the only motion they could file which would have
 6 demonstrated their intention had not been vexatious throughout.

7 Rogers v. Fed. Home Loan Bank , No. 19-cv-01978-SI, at *10 (N.D. Cal. Nov. 25, 2019)
 8 (“Before imposing a pre-filing order, the court must: (1) provide the litigant with notice and an
 9 opportunity to be heard; (2) set forth a record of the "cases and motions that support the
 10 conclusion that [the litigant's] filings are so numerous or abusive that they should be enjoined";
 11 (3) make "substantive findings as to the frivolous or harassing nature of the litigant's actions";
 12 and (4) ensure that the order is "narrowly tailored to closely fit the specific vice encountered." De
 13 Long v. Hennessey, 912 F.2d 1144, 1146-48 (9th Cir. 1990).”)

14 The extreme abusiveness of this case I believe merits making such a declaration and the
 15 issuance of a pre-filing order, which I request the court enter. In order to support the court in
 16 determining matters related to items (2) and (3), plus to help ensure the court is able to tailor any
 17 such order as narrowly as possible, I have conducted a search to find other cases involving Light
 18 Field Lab. Due to my inexperience, I am not certain how comprehensive my coverage was.
 19 There is Exhibit E in which Plaintiff and counsel appear again as Plaintiff and counsel where
 20 they sought a declaratory judgment in a contractual dispute. In Exhibit F, Plaintiff is defendant in
 21 a bankruptcy proceeding where the Trustee alleges “Despite the Debtor having provided the
 22 agreed upon legal services, the Defendant has failed to make payment to the Debtor for the
 23 amounts owed.”

24 **6. PERMANENT INJUNCTION**

25 Issue an injunction preventing interference with any wrongful termination investigation.

26 Issue an injunction preventing interference with any matters related to my rights under the
 27 agreements in Plaintiff’s complaint, Dkt. No 1.

1 Mandate Plaintiff's cooperation with any and all investigations related to either the
2 underlying wrongful termination complaint or issues stemming from this case.

3 Should the court see fit to grant such an order then to help ensure Plaintiff fully complies I
4 further request that the court inform the Equal Employment Opportunity Commission, California
5 Civil Rights Department, the Department of Justice, and any other agencies or regulatory
6 authorities as the court deems relevant of such orders.

7 **7. OTHER AND FURTHER JUST RELIEF**

8 I request any and all such other and further relief to which I may be justly entitled.

9 **WITH RELATION TO LITIGOUSNESS**

10 Around November 16th, once it became apparent I would be unable to secure counsel, I
11 began researching the law in earnest in preparation to defend myself. Despite only doing so for
12 such a short time, I've covered a broad range of topics including the ADA, the Constitution, the
13 Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Northern District's Civil
14 Local Rules, the Securities Act, laws related to vexatious litigation and many, many more.

15 In that process I have come across many other potential claims I may have against Light
16 Field Lab. For example, despite being a shareholder since December 10th 2020 (Dkt. No 1,
17 Exhibit A, CS-13), I have never received any shareholder communications from Light Field Lab
18 beyond the agreements and certificates in evidence. Nothing with relation to shareholder
19 meetings, voting, bylaws, certificate of incorporation. Some of these are not necessarily required
20 to be disclosed, though without being so it is difficult to establish if shareholder rights have been
21 upheld. I have no idea what they are disclosing to the Delaware Secretary of State nor what
22 obligations they have remaining to me as they can be modified through some of those
23 documents. However, shareholder access to books and records does seem to be protected under
24 Delaware's General Corporation Law.

25 "The duty of loyalty includes a requirement to act in good faith" (Orchard, 88 A.3d at
26 32.) "To act in good faith, a director must act at all times with an honesty of purpose and in the
27 best interests and welfare of the corporation." (In re Walt Disney Co. Deriv. Litig., 907 A.2d
28 693, 755 (Del. Ch. 2005), aff'd, 906 A.2d 27 (Del. 2006).)

1 "A failure to act in good faith may be shown, for instance, where the f duciary intentionally
2 acts with a purpose other than that of advancing the best interests of the corporation" (Walt
3 Disney, 906 A.2d at 67.)

4 In a text conversation with Light Field Lab's CEO Jon Karaf n just prior to the collapse of
5 Silicon Valley Bank, I asked him about Light Field Lab's exposure to Silicon Valley Bank.
6 Toward the end of that conversation I asked "Is there any additional information I'm entitled or
7 required to be given access to as a shareholder?" During my research for this case I have also
8 learnt that under Delaware corporate law it is f rmly established that shareholders have a right to
9 inspect books and records, which is clearly relevant in the context of that conversation, and
10 failure to inform me of such could be considered a breach of f duciary duty.

11 Had I been provided that information then, I would have been aware I was entitled to such
12 and been able to access that information in order to make an informed decision as to whether it
13 was in my best interest to exercise the vested options prior to their expiry. His failure to inform
14 me of that caused me damages as I was unable to ascertain the value of exercising those options,
15 which is related to the underlying contracts at issue in this case, irrespective of whether the
16 termination was wrongful or not, and as such could be brought in as a related matter in this
17 proceeding.

18 On the subject of breach of fiduciary duty, engaging in unlawful conduct, such as the many
19 which I outline in this f ling, case law clearly establishes that for Delaware corporations, such
20 conduct constitutes a breach. Metro Commc'n Corp. BVI v. Advanced Mobilecomm Techs. Inc.,
21 854 A.2d 121, 131 (Del. Ch. 2004) ("Under Delaware law, a f duciary may not choose to manage
22 an entity in an illegal fashion, even if the f duciary believes that the illegal activity will result in
23 profits for the entity."); Guttman, 823 A.2d at 506 n.34 ("[O]ne cannot act loyally as a corporate
24 director by causing the corporation to violate the positive laws it is obliged to obey.").

25 As I have never been provided with a copy of Light Field Lab's corporate charter, I cannot be
26 sure to what extent their f duciaries are shielded from personal liability, especially given it
27 appears that factors such as types of damages and exculpated vs non-exculpated claims come
28 into play and as I am not seeking to litigate these matters I've had no interest in gaining a deeper

1 understanding of the matter. However, the potential for harm to shareholders exists regardless of
2 any personal liability which may apply to f duciaries stemming from such conduct.

3 Furthermore, Plaintiff's bringing this case presents an opportunity for me to litigate the
4 underlying claims, which I could easily have done by providing an answer and specif c
5 counterclaims. However, as stated, I am not litigious and only wish to have just remedy, which
6 cannot be determined until I've had my administrative investigation which I'm both entitled to
7 and required to exhaust as part of my available administrative remedies. By bringing suit f rst,
8 Plaintiff has actually positioned me such that I may not be required to exhaust my administrative
9 remedies as I am not the one bringing suit. Timeliness is considered a factor in objections based
10 on failure to exhaust administrative remedies. Therefore, one could argue that since Plaintiff
11 chose to initiate the suit and therefore the timing, that implicitly means they had ample time to
12 decide whether they wished to have matters addressed by administrative remedies and therefore
13 have both implicitly waived it and had ample time to do so.

14 Despite being fully aware of all the aforementioned potential claims, some of which could be
15 raised in this proceeding, others which would require their own, I have not attempted to do either
16 as I do not wish to be engaged in litigation. Had I such thirst as Plaintiff contends, I would have
17 already f led all relevant motions, sought to amend the parties, and initiated relevant complaints.

18 Having said that, my lack of desire to engage in litigation does not constitute a waiver in
19 relation to any particular issue, though I have no intention of litigating any of those issues both
20 for personal reasons and the inherent conf ict of interest I have as a shareholder in Light Field
21 Lab. Being involved in litigation distracts Light Field Lab from its core business and harms
22 shareholder value. As such, it should only be undertaken legally and when necessary to protect
23 the interests of shareholders.

CONCLUSION

While I appreciate given the amount of effort clearly expended on preparing this defense that it may be tempting to assume that I want to be involved in litigation. However, there are two primary factors that have driven me to provide as comprehensive of a defense as I am capable.

The first is the damages that Plaintiff seeks are far beyond what I have in savings, would wipe out my investments, and then still not be covered without selling or remortgaging my residence. All this during a time when investments are heavily down, interest rates are up, and just the act of refinancing would over double my mortgage leaving me unable to make ends meet. At my age, this would mean there is absolutely no possibility that I ever retire; as a permanent wage slave life would likely not be worth living should I not prevail in this suit.


The second is that this has been all consuming. I get up, try focus at work but it's almost impossible with the pressure of this case and the stakes I describe. Then, as soon as I'm able to finish for the day all my evenings and weekends until late into the night are spent wearing myself out further with research and case preparation.

My blood pressure and pulse which have always been perfect prior to this are now almost always extremely elevated. My wife suffers the same. My son has been physically ill as a result of their needless harassment of us in our home. My daughter, who has not been to an in-person school since the pandemic began, once again has her recurring nightmares of active shooter lockdowns due to Plaintiff sending their armed process server trespassing and banging on our windows. My family's trust in people has been completely eroded as has mine. We are all prone to take on the burdens of our loved ones, and so I acutely feel much of their suffering as my own. As if Plaintiff's suit, which it is impossible to ever have been justiciable, wasn't enough, they intentionally, despite having no reason given a waiver had been offered, took the only safe space on earth my family has had since the pandemic began and repeatedly violated it.

There is simply no aspect of our lives which has not been fundamentally altered by Plaintiff's vile and egregious acts. We moved into our current home a little over ten years ago, not long before my son's tenth birthday. It was his fourteenth move. Never before had we been able to establish a house that felt like a home. That's been stolen. Nobody feels safe. Nobody feels at

1 home. Everyone feels vulnerable and paranoid. Jumping when the door knocks. Viewing
2 passers-by with suspicion. I do not know how I will ever return to my family what Plaintiff
3 severed from their lives, but I know this - I can only begin to try once this case is over.

4
5 Date: December 18th 2023

Signature: 

6 Printed Name: Alan Jones

7 Pro Se
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EXHIBIT A

Location  Inbox

noreply@eoc.gov

to: alan@jones.how ▾

 Mon, Oct 30, 2023 • 16:21

 Automatic image loading has been blocked to protect your privacy.

?

Notice of Scheduled Interview / Aviso de Entrevista Programada



U.S. Equal Employment Opportunity Commission

You are scheduled for an interview Phone with the Equal Employment Opportunity Commission (EEOC) regarding your inquiry **551-2024-00586**. This email confirms your appointment with an EEOC representative of the **San Jose** office for **01/18/2024 at 12:00 PM PST**.

At the time of your interview, please have the password for your EEOC Public Portal user account with you.

Before your interview, please visit [EEOC Public Portal](#) as soon as possible to provide additional information about your inquiry. Providing additional information is optional, but can help make the interview more productive and efficient. You may add or edit the additional information up until you have your interview with EEOC. The information you provide is confidential and will not be disclosed to your employer during an investigation.

ANSWERING THESE QUESTIONS IS NOT THE SAME AS FILING A CHARGE OF DISCRIMINATION.

A charge of discrimination is a signed statement asserting that an organization engaged in employment discrimination. It requests EEOC to take remedial action. The laws enforced by EEOC, except the Equal Pay Act, require you to [file a charge](#) before you can file a lawsuit for unlawful discrimination. There are strict [time limits for filing a charge](#).

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

Light Field Lab,
Plaintif ,
v.
Alan Jones,
Defendant.

Case No. 4:23-cv-05344

**RELEASE AND COVENANT NOT TO
SUE**

In consideration of Light Field Lab's agreement to dismiss its declaratory judgment complaint, case number 4:23-cv-05344-YGR filed in the Northern District of California, Alan Jones ("Jones") agrees on behalf of himself and his successors, assigns, and anyone else who may claim on his behalf as follows:

1. Representations and Warranties. Alan Jones ("Jones") hereby represents and warrants that (1) he has the full right, power, and authority to enter this Release and Covenant Not to Sue, to grant the release contained herein, and to perform his obligations hereunder; (2) has entered into this Agreement without reliance upon any statement, warranty, promise, inducement, agreement or representation not contained in this Agreement of any other party hereto or any agent for Light Field Lab; (3) he expressly accepts and assumes the risk that the facts with respect to which this agreement is executed may be found hereafter to be different from the facts now believed to be true, and he acknowledges and agree that this agreement shall be and remain effective notwithstanding such difference in facts, if any and (4) he has read and understands this agreement and has entered into this agreement voluntarily and free of duress, undue influence or coercion.
2. Release. Jones on behalf of himself and his successors, assigns, and anyone who may claim on his behalf, hereby knowingly and voluntarily **releases and forever discharges** and covenants not to sue Light Field Lab for any and all charges, complaints, claims, liabilities,

obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, guarantees, debts, expenses, and/or causes of action of any nature whatsoever, whether known or unknown, suspected or unsuspected, claimed or unclaimed, asserted or unasserted, fixed or contingent, accrued or unaccrued, past or present, whether based in law or equity, under U.S. federal or state law or any other law of any other jurisdiction, direct or derivative, from the beginning of time to the date of full execution of this Agreement arising out of, based upon, relating to or in connection with the Light Field Lab's 2017 Stock Incentive Plan ("Plan") (attached hereto as Exhibit A).

3. Covenant Not to Sue: Jones knowingly, intentionally, and voluntarily covenants and agrees he will not now or in the future bring any action in law or equity in any court, forum, or arbitration proceeding (whether by original process, counterclaim, cross-claim, third-party process, impleader, claim for indemnity or contribution, or otherwise) against Light Field Lab with respect to any claims relating to the Plan.

4. Scope of Release and Covenant Includes All Claims and Damages Arising Under the Plan.

This Release and Covenant Not to Sue includes all causes of action, damages, costs, attorney's fees, claims, liabilities, and any other demands arising from or related to the Plan, whether in law or equity, including without limitation claims for breach of contract, detrimental reliance, promissory estoppel, due process, negligence, infliction of emotional distress, interference with contract or prospective economic advantage, invasion of privacy, personal injury, and/or any other cause of action in tort, contract, or any other theory (collectively, the "Claims") which Jones has, now or in the future.

5. Preservation of Employment Claims, but Not Plan Damages. This Release and Covenant Not to Sue does not include employment claims that Jones may bring for Light Field Lab's termination of his employment by ("Employment Claims"). While Jones retains the right to pursue Employment Claims, he nonetheless fully releases and discharges any claim for damages arising under the Plan. Jones expressly releases any damages based in any way on the Plan as compensation in connection with his Employment Claims. In no event shall any claim brought by Jones include any damages arising from the Plan as Jones is voluntarily relinquishing any such

1 claim in this Release.

2 6. Express Waiver of Waiver Of Civil Code Section 1542 And Common Law Rules. Jones
3 expressly waives the benefits of any statutory provision or common law rule that provides that a
4 release and waiver of liability does not extend to causes of action of which the Jones is unaware.
5 Accordingly, Jones and Light Field Lab knowingly and expressly waives all Plan rights and
6 benefits afforded by Section 1542 of the Civil Code of the State of California ("Section 1542"),
7 and any analogous rule or principle of any other jurisdiction, and do so understanding the
8 significance of that waiver. Section 1542 provides:

9 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS
10 THAT THE CREDITOR OR RELEASING PARTY DOES NOT
11 KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT
12 THE TIME OF EXECUTING THE RELEASE AND THAT, IF
KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.

13 7. Governing Law; Choice of Forum. All disputes and litigation between Jones and Light
14 Field Lab arising out of or related to this Release and Covenant Not to Sue shall be governed by
15 the laws of the State of California, without regard to its conflicts of laws principles. Any such
16 disputes and litigation shall be litigated exclusively before a state or federal court located in Santa
17 Clara County, California, and Jones shall not bring any litigation related to the Plan in any other
18 forum. Jones waives any argument that the forum designated by this paragraph is not convenient.

19 8. Legal Advice Concerning This Agreement. Light Field Lab and Jones, each of them,
20 represent and warrant that they rely solely upon their own judgment, belief, and knowledge, and
21 upon the advice and recommendations of their own independently selected legal counsel with
22 respect to this Agreement, and that they have not been influenced to any extent whatsoever in
23 executing this Agreement by any of the parties hereto, or by any person representing them. The
24 parties, and each of them, represent and warrant that they have been advised by, or had the
25 opportunity to consult with, legal counsel of their choice with respect to this Agreement, including
26 the waiver of Section 1542 and any similar law or statute, and that they understand and
27 acknowledge the significance and consequence of entering into this Agreement.

28 ///

9. Entire Agreement. This Release and Covenant Not to Sue constitutes the sole and entire agreement between Jones and Light Field Lab with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. If any term or provision of this Release and Covenant Not to Sue is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Release and Covenant Not to Sue or invalidate or render unenforceable such term or provision in any other jurisdiction.

Dated: December __, 2023

State of _____)
County of _____) ss.

Alan Jones

This instrument was acknowledged before me on _____, by _____

NOTARY PUBLIC FOR _____
My Commission Expires: _____

EXHIBIT C

aberg@nwlink.com

  Thu, Oct 26 • 10:45

aberg@nwlink.com

  Thu, Oct 26 • 15:47

Alan Jones

  Thu, Oct 26 • 16:39

Alan Jones

Location  Sent

alan@jones.how

to: ppeden@bwsllaw.com + 1 

 Thu, Oct 26, 2023 • 17:07

From

Alan Jones <alan@jones.how>

To

Patricia L. <ppeden@bwsllaw.com>

Alex Buerger <aberg@nwlink.com>

FWD: Re: FW: Jones Service of Process

Dear Patty,

As I am uncertain what messaging Alex last provided to your or whether he has provided my responses to your communications the past two days, please find the current situation below. As I mention there, I am currently making efforts to provide you with a means to provide service which respects my health condition and disability status; I, or that person, will be in touch as soon as that has been arranged.

Regards,

Alan.

Date: Oct 26, 2023, 16:39

From: alan@jones.how

To: aberg@nwlink.com

Subject: Re: FW: Jones Service of Process

Thanks, Alex. Please inform them that I am not refusing service, and am happy to arrange an attorney to receive service, but they made no efforts to request or arrange that with me. Having an alternate individual at my residence does not reduce my risks and any further attempts to deliver in person will be considered harassment and a deliberate attempt to put my health at risk; I have never refused and this communication has clearly indicated that I am willing to have service received and am currently making efforts to arrange it in a manner that is safe for my health, which is extremely relevant to the heart of this disagreement.

Please inform them that I will contact them once that has been arranged, but that their expectation that be done immediately is unreasonable. We politely waited for multiple weeks as they delayed discussions repeatedly. They should be willing to provide similar cordiality and professionalism as they enjoyed from you during your representation of me.

Regards,

Alan.

Oct 26, 2023, 15:47 by aberg@nwlink.com:

FYI

The Law Office of Alex Buerger

318 6th Ave. S #126

Seattle, WA 98104

Phone: 206-405-4520

Fax: 206-405-3233

Email: aberg@nwlink.com

This email may contain confidential and privileged information for the sole use of the intended recipient(s). If you are not the intended recipient, you are not authorized to review, use, distribute or disclose the information and are instructed to delete all copies of this communication.

From: Peden, Patricia L. <PPeden@bwsllaw.com>

Sent: Thursday, October 26, 2023 3:10 PM

To: aberg@nwlink.com

Cc: Modarresi, Ghazaleh <GModarresi@bwsllaw.com>; Easley, Catherine
<CEasley@bwsllaw.com>

Subject: RE: Jones Service of Process

Alex:

We asked you to accept service. We never heard back. If you had accepted service, there would be no need to deliver the documents to him in person. Now that we have paid for a process server, he will be personally served.

Mr. Jones can have someone over 18 years old present at his home to accept service. If he wants to give us a specific time tomorrow, we can work with our vendor to ensure a timed service.

If he refused to accept, we will seek our costs. Mr. Jones can explain to the court why he would not (1) allow you to accept, (2) or work with us for a timed service.

Thanks,

Patty

From: aberg@nwlink.com <aberg@nwlink.com>

Sent: Thursday, October 26, 2023 2:29 PM

To: Peden, Patricia L. <PPeden@bwsllaw.com>

Cc: Modarresi, Ghazaleh <GModarresi@bwsllaw.com>; Easley, Catherine <CEasley@bwsllaw.com>

Subject: RE: Jones Service of Process

[EXTERNAL]

Patty,

Considering that my client is immunocompromised, perhaps personal service is not the way to go here.

I suggest that you send him a waiver of service pursuant to FRCP 4(d).

Thank you,

Alex

The Law Office of Alex Buerger

318 6th Ave. S #126

Seattle, WA 98104

Phone: 206-405-4520

Fax: 206-405-3233

Email: aberg@nwlink.com

This email may contain confidential and privileged information for the sole use of the intended recipient(s). If you are not the intended recipient, you are not authorized to review, use, distribute or disclose the information and are instructed to delete all copies of this communication.

From: Peden, Patricia L. <PPeden@bwsllaw.com>

Sent: Thursday, October 26, 2023 9:49 AM

To: aberg@nwlink.com

Cc: Modarresi, Ghazaleh <GModarresi@bwsllaw.com>; Easley, Catherine
<CEasley@bwsllaw.com>

Subject: Jones Service of Process

Importance: High

Hi Alex:

The process server is trying to perfect service on your client. Service was attempted yesterday around 7:30 pm. It appears that Mr. Jones was home, the lights were on, but he would not answer the door. The process server will make another attempt today. If your client evades service, we will seek to recover our costs, as well as the cost of bringing the motion. Please advise him to accept the documents today to avoid paying costs.

Thanks,

Patty

Patricia L. Peden | Partner

1999 Harrison Street, Suite 1650 | Oakland, CA 94612-3520

d - 510.903.8805 | t - 510.273.8780 | f - 510.839.9104 | m - 510.693.3293

ppeden@bwsllaw.com | [vCard](#) | bwsllaw.com

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TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

EXHIBIT D



The night vision images above show one of the locations to which the process server trespassed on November 10th 2023. Please note the bulletproof vest and f rearm.



The arrow to the left shows the only path by which one can enter the property without going through the house or climbing the deck to arrive at the location where the process server is pictured above.



The arrow to the left shows the path from the front of the property to the front door, which is the only path for which process servers have a trespass exemption. That exemption only applies if they have a lawful purpose.

EXHIBIT E



21CV381454

LIGHT FIELD LAB, INC., a Delaware Corporation vs PRUDENTIAL OVERALL SUPPLY

[CASE INFO](#) [PARTIES](#) [EVENTS](#) [HEARINGS](#) [PRINTABLE](#)

EVENTS

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6/15/2021	Request: Dismissal	LIGHT FIELD LAB, INC., a Delaware Corporation,		
4/1/2021	New Filed Case			
4/1/2021	Complaint (Unlimited) (Fee Applies)	LIGHT FIELD LAB, INC., a Delaware Corporation,		
4/1/2021	Civil Case Cover Sheet	LIGHT FIELD LAB, INC., a Delaware Corporation,		
4/1/2021	Summons: Issued/Filed	LIGHT FIELD LAB, INC., a Delaware Corporation,		

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E-FILED
4/1/2021 12:00 AM
Clerk of Court
Superior Court of CA,
County of Santa Clara
21CV381454
Reviewed By: D Harris

1 Patricia L. Peden (SBN 206440)
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4 Oakland, CA 94612
Tel: 510.273.8780 Fax: 510.839.9104
5
6 Attorneys for Plaintiff, LIGHT FIELD LAB, INC.

7
8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SANTA CLARA**

11 LIGHT FIELD LAB, INC., a Delaware
12 Corporation,

13 Plaintiff,

14 v.

15 PRUDENTIAL OVERALL SUPPLY, a
16 CALIFORNIA CORPORATION dba
17 PRUDENTIAL CLEANROOM
SERVICES, AND DOES 1 THROUGH
20, INCLUSIVE,

18 Defendant(s).

Case No. 21CV381454

COMPLAINT FOR DAMAGES

19
20 **INTRODUCTION**

21 This action involves a rapacious third-party vendor who alleged that Plaintiff breached an
22 agreement it never made; attempted a shakedown of Plaintiff; and when Plaintiff reasonably
23 resisted the vendor's bullying, fraudulent tactics, the vendor attempted to use a collection agency
24 to gain leverage – leaving Plaintiff no option but to seek a legal remedy.

25
26 **PARTIES, JURISDICTION, AND VENUE**

27 1. Plaintiff Light Field Lab, Inc. ("Light Field Lab" or "Plaintiff") is, and all times
28 relevant herein was, duly incorporated under the laws of the state of Delaware and authorized to

OAK #4851-1356-5923 v2

- 1 -

1 conduct business in California. Light Field Lab maintains its principal place of business in San
2 Jose, located within Santa Clara County.

3 2. Light Field Lab is a Silicon Valley-based technology company and in its start-up
4 phase of creating new-to-market, holographic displays. As part of its work, Light Field Lab uses a
5 cleanroom that necessitate employees wearing special overall suits (“cleanroom suits”) designed
6 for use within antiseptic environments. Essentially, these suits prevent human hair or skin cells
7 from shedding within a protected area by enrobing employees in antiseptic coverings, such as
8 gowns, hoods, gloves, and/or shoe coverings, which employees wear over normal work attire.
9 Light Field Lab employees then don and doff these special garment ensembles each time they
10 enter and exit a cleanroom.

11 3. Plaintiff is informed and believes, and thereon alleges, that at all relevant times,
12 Defendant Prudential Overall Supply was, and is, a California Corporation organized and existing
13 under the laws of this state doing business as Prudential Cleanroom Services. Prudential Overall
14 Supply has its headquarters in the City of Irvine with its entity address in Milpitas, located within
15 Santa Clara County.

16 4. Plaintiff is informed and believes, and thereon alleges, that Prudential Overall
17 Supply Company operates a uniform-supply business, which includes the sale, leasing, delivery,
18 and laundering of work uniforms. Its dba, Prudential Cleanroom Services, provides washable
19 cleanroom apparel, including shoe covers and gowns, *et al.* As part of its services, Prudential
20 Cleanroom Services commercially leases garments, which also includes picking up, delivering,
21 and laundering the cleanroom attire.

22 5. The true names and capacities of the defendants sued herein as Does 1 through 20,
23 inclusive, are unknown to Plaintiff, which therefore sues said defendants by such fictitious names
24 pursuant to Code of Civil Procedure section 474. Plaintiff will amend this Complaint to state the
25 true names and capacities of any fictitiously named defendant it has ascertained.

26 6. Whenever reference is made in this Complaint to any act or omission of one or
27 more of the Defendants, it shall be deemed to mean the act of each and every Defendant acting
28

1 individually, jointly, and severally, including Does 1 through 20.

2 7. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
3 mentioned, each of the defendants was the agent and joint venturer of the other Defendants; and
4 in doing the things hereinafter alleged, each Defendant acted within the course and scope of such
5 agency, employment, and/or joint venture with the advance knowledge, acquiescence, or
6 subsequent ratification of each and every other defendant.

7 8. All parties have physical entities and business operations within the County of
8 Santa Clara. Thus, venue within this jurisdiction is proper pursuant to California Code of Civil
9 Procedure section 395(a).

10 **GENERAL ALLEGATIONS**

11 9. Plaintiff incorporates by this reference the allegations contained in paragraphs 1
12 through 8 of this Complaint as though fully set forth herein.

13 10. On or about December of 2019, Light Field Lab decided to explore the possibility
14 of procuring a cleanroom garment supplier. Its then-Lead Production Engineer, Jared Perez, knew
15 a vendor that his previous employer used. That vendor was Defendant Prudential Overall Supply,
16 Inc., dba Prudential Cleanroom Services (“Prudential”). Although Mr. Perez knew of Prudential,
17 he did not procure Prudential’s services at his former employer’s site; rather, he merely used
18 those services downstream – after Prudential entered into a contract with his former employer.

19 11. On information and belief, on or about December of 2020, Mr. Perez contacted
20 Prudential to gather information on its services for Light Field Lab management’s review and
21 consideration. On or about mid-January of 2020, Mr. Perez communicated via email with
22 Prudential’s sales representative, Account Executive Gary Metcalfe.

23 12. On or about January 20, 2020, Light Field Lab Controller, Ms. Erin Doyle, signed
24 a Prudential form authorizing the company to check Plaintiff’s credit history as part of a credit
25 application (“New Account Application.”). On or about January 20th, Ms. Doyle signed a form
26 acknowledging a cost estimate from Prudential’s Price Structure for Light Field Lab’s
27 consideration. This form, which Prudential refers to as “Addendum ‘A’ ” was not presented as a
28

1 part of a services agreement when Ms. Doyle signed it, nor did she intend it to be part of any such
2 contract.

3 13. On or about January 23, 2020, Mr. Perez copy-emailed Light Field Lab Chief
4 Operating Officer, Mr. John Dohm, a set of forms that Plaintiff is informed and believes
5 originated from Mr. Metcalfe. These documents included a “Merchandise Authorization Order
6 Form,” a “Safety Survey,” a “Service Rental Agreement,” a “Budget Protection Program
7 Agreement,” and a “Customer Inspection Requirements Instructions (Garments).” As was readily
8 apparent from his job title, Mr. Perez was not an officer of Light Field Lab, and he did not have
9 authority to bind Light Field Lab in a contract. Given this lack of authority, and as part of his
10 email, Mr. Perez asked Mr. Dohm to review Prudential’s forms. Mr. Dohm did not sign or
11 otherwise take any steps to affirm the forms in the packet.

12 14. Nearly a month passed, and then, on or about February 20, 2020, Prudential’s Mr.
13 Metcalfe emailed Mr. Perez and inquired about the “paperwork.” On or about February 21, 2020,
14 as Light Field Lab has since learned, Mr. Perez forwarded Mr. Metcalfe the documents, described
15 in Paragraph 13 above, bearing the typewritten name of Mr. Perez, even though he had no actual
16 or apparent authority to enter into contractual arrangements with vendors. Plaintiff is informed
17 and believes that Prudential did not have reason to believe that Mr. Perez would have such
18 authority given its past dealings with him. Mr. Perez himself did not believe he had, nor did he
19 hold himself out as having, authority to bind Light Field Lab contractually, which is why he
20 forwarded Mr. Metcalfe’s “paperwork” to the company’s management. Further, the Controller,
21 Ms. Doyle, had signed the New Account Application; yet Plaintiff is informed and believes that
22 Prudential never asked Mr. Perez if he had authority to enter into any agreement on behalf of
23 Light Field Lab.

24 15. On or about the fourth week in February of 2020, Mr. Perez left Light Field Lab to
25 accept a position with another company. At this point, Plaintiff thought it was still deciding if it
26 would choose Prudential as a potential vendor and had no reason to believe otherwise.

27 16. Plaintiff is informed and believes that, on or about March 13, 2020, Josh Miller,
28

1 Prudential's General Manager, sent a letter addressed to a "Jared Diaz" at Light Field Lab. Light
2 Field Lab does not have any employee with that name. This correspondence, which Light Field
3 Lab first learned of through its subsequent interactions with Prudential, states that the company
4 had become Light Field Lab's "supplier." To this letter, Prudential attached the credit check
5 application and the credit report signed by Controller Ms. Doyle on or about January 20, 2020. As
6 noted, no one at Light Field Lab received this correspondence, nor did this correspondence
7 include a signed contract.

8 17. Thus, as a practical matter, after January 20, 2020, Light Field Lab heard nothing
9 further from Prudential until mid-June of 2020 – approximately five months after Light Field Lab
10 first considered Prudential as a potential vendor. In mid-June, Prudential suddenly arrived on-site
11 at Light Field Lab's office in San Jose with a delivery of cleanroom suits. Light Field Lab was
12 mystified, to say the least. At that time, amid the surprise and confusion of an unordered delivery,
13 and on information and belief, Light Field Lab told Prudential it did not order the cleanroom
14 suits. After finding no internal records of a contract with Prudential, Light Field Lab instructed
15 Prudential not to return to its offices and not to deliver any additional products to it. Incidentally,
16 Light Field Lab has offered, and continues to be willing, to compensate Prudential for suits
17 already delivered because it kept the cleanroom suits at its offices while it investigated
18 Prudential's delivery error.

19 18. At that time, Light Field Lab anticipated a quick and easy resolution and contacted
20 Defendant to inquire as to why Prudential sent Plaintiff cleanroom suits it had not ordered. On or
21 about June 16, 2020, Account Executive Mr. Metcalfe forwarded Mr. Dohm an email – to which
22 he attached the documents described above in paragraphs 13 and 14. It was at this point that Light
23 Field Lab first learned that Mr. Perez appeared to have sent Mr. Metcalfe the signed form
24 documents in late February of 2020.

25 19. On or about June 22, 2020, Mr. Dohm emailed Mr. Metcalfe to explain that Mr.
26 Perez was not authorized to enter into such an agreement with Prudential. Thinking the matter
27 could be resolved respectfully and amicably, Mr. Dohm suggested the Parties "do something that
28

1 makes sense” in the absence of a contract and invited Mr. Metcalfe to have a dialogue about the
 2 matter. Mr. Metcalfe replied, thanking Mr. Dohm, and telling him he would forward the matter to
 3 “upper management.”

4 20. Almost two weeks later, on or about July 10, 2020, Mr. Metcalfe emailed Mr.
 5 Dohm to assert that Prudential determined the Parties had an alleged “contract” and a “valid and
 6 active agreement.” Mr. Metcalfe offered Mr. Dohm the opportunity to cancel pursuant to the
 7 “cancellation costs” provision within the alleged “contract.” Shortly thereafter, Prudential began
 8 sending Light Field Lab a series of invoices.

9 21. On or about September 28, 2020, Gaurav Mathur, Esq. informed Prudential in
 10 writing that the company was “not bound by any agreement with Prudential” and reiterated that it
 11 did not want its services; had not contracted for them; and that Light Field Lab’s former
 12 employee did not have the authority to enter into such agreements.

13 22. Approximately one month later, on or about October 28, 2020, Light Field Lab
 14 received correspondence from Prudential’s counsel, Rose Sorensen, Esq., making a demand for
 15 payment from Light Field Lab to Prudential in the amount of \$35,065.25. Prudential then
 16 assigned Light Field Lab’s alleged “account” to a collections agency. On or about
 17 February 15, 2021, Light Field Lab received correspondence from the Creditors Adjustment
 18 Bureau asserting that Plaintiff had a “debt” in the amount of \$25,282.74.

19 23. Light Field Lab now files the instant matter.

20 **FIRST CAUSE OF ACTION**

21 **DECLARATORY JUDGMENT**

22 **(Against All Defendants)**

23
 24 24. Plaintiff incorporates by this reference the allegations contained in paragraphs 1
 25 through 23 of this Complaint as though fully set forth herein.

26 25. Light Field Lab employs Lead Production Engineers. Generally speaking, an
 27 individual in this position may create process work flows and evaluate the efficacy of engineering
 28 efforts. However, the position, including the employee holding it, has no executive management

1 or budgetary authority to enter into, approve, or otherwise amend Light Field Lab's contracts with
2 third-parties, including outside vendors.

3 26. Light Field Lab never authorized its Lead Production Engineer to act on its behalf
4 in establishing Service Agreements, contracts, *et al.* Mr. Perez, who was the Lead Production
5 Engineer at the time in question, did not have actual authority to act on Light Field Lab's behalf.
6 Nor did Mr. Perez believe he had such authority. In fact, as noted above, when Mr. Metcalfe sent
7 Prudential's document packet to Mr. Perez, he forwarded it to Light Field Lab's management.
8 Mr. Perez never gave Prudential any reason to believe he had authority to bind Plaintiff
9 contractually. He identified himself by his title, which in itself implied that he had no contractual
10 authority. Further, Prudential had previous dealings with Mr. Perez, during which Prudential was
11 aware, or should have been aware, that Mr. Perez had no authority to execute a contract for goods
12 or services on behalf of his employer.

13 27. However, Prudential asked Mr. Perez to sign a Services Agreement when it knew,
14 or should have known, that he had no actual or apparent authority to enter into such a contract. A
15 month before Prudential received documents purported to contain Mr. Perez's electronic
16 signature, Light Field Lab's Controller signed two form documents, which illustrated Mr. Perez's
17 lack of apparent authority. Yet, Prudential made no inquiry into who at the company had
18 authority to enter into contracts on Light Field Lab's behalf. Instead, knowing full well that Mr.
19 Perez did not have requisite authority, it attempted to leverage his signature to bind Light Field
20 Lab to an agreement for cleanroom garments.

21 28. Prudential exploited Mr. Perez's Lead Production Engineer position while
22 knowing he did not have authority to enter into a contract, and it did so for the purpose of
23 defrauding Light Field Lab by purportedly binding it to a seven-year agreement for garment
24 services – after which the contract would renew automatically for another seven years. Prudential
25 made no inquiry into which individual at Light Field Lab had the authority sign an outside vendor
26 agreement; and it purposefully induced a non-management employee's signature on a document

27 ///

1 whose draconian terms, drafted by Prudential, benefitted it substantially at Light Field Lab's
2 expense.

3 29. When, in June of 2020, Prudential wrongly and belatedly asserted it had a Services
4 Agreement with Plaintiff, Light Field Lab informed Prudential that no contract existed; that Light
5 Field Lab did not want Prudential's services or products; and it asked Prudential not to return to
6 its office in the future.

7 30. Because Mr. Perez did not have the actual or apparent authority to bind Light Field
8 Lab contractually, no enforceable agreement exists, and thus Light Field Lab has no contractual
9 relationship or obligation(s) to Prudential.

10 31. An actual controversy has arisen between the Parties regarding the signed
11 documents. Plaintiff disputes Prudential's allegation that it has a contract with Light Field Lab.
12 Had Plaintiff entered into an agreement with Prudential, which it did not, that contract would be
13 unenforceable as a matter of law because Prudential knew, or should have known, that Mr. Perez
14 had no actual nor apparent authority to bind the company.

15 **SECOND CAUSE OF ACTION**

16 **BREACH OF CONTRACT**

17 **(Against Defendant Prudential and DOES 1 through 20)**

18 32. Plaintiff incorporates by this reference the allegations contained in paragraphs 1
19 through 31 of this Complaint as though fully set forth herein.

20 33. Even if a contract existed between Plaintiff and Prudential, which it does not,
21 Prudential breached its contractual duties to Light Field Lab by failing to comply with the
22 contract's terms by waiting four months to deliver any products, which directly caused the
23 resulting damage.

24 34. As a direct, legal, and proximate result of the breach of contract by Prudential and
25 DOES 1 through 20, Light Field Lab incurred damages.

26 35. As a matter of note, if there were an enforceable contract between the parties,

27 ///

1 which there is not, and Defendant(s) breached their alleged contractual obligations, then
 2 Prudential has also breached its duty to act in good faith and to deal fairly because good faith and
 3 fair dealing, collectively, are an implied covenant within any contract.

4 **THIRD CAUSE OF ACTION**

5 **FRAUD: INTENTIONAL MISREPRESENTATION, CONCEALMENT,** 6 **CONSTRUCTIVE FRAUD, AND FALSE PROMISE**

7 **(Against Defendant Prudential and DOES 1 through 20)**

8 36. Plaintiff incorporates by this reference the allegations contained in paragraphs 1
 9 through 35 of this Complaint as though fully set forth herein.

10 37. Prudential entered into an alleged contract with Plaintiff without any intention of
 11 fulfilling its obligations as evidenced by its failure to perform for nearly four months;
 12 affirmatively misrepresented its contractual intentions; made false promises to Light Field Lab;
 13 and intentionally concealed material facts. Prudential knew these misrepresentations were false
 14 when made; and it made these false statements with the intention of inducing Light Field Lab to
 15 rely on its misrepresentations and false promises. Light Field Lab relied on Prudential's
 16 misrepresentations and would not have acted as it did if it had known the truth.

17 38. Prudential had an employee sign a seven-year contract when that individual had no
 18 authority to do so, as evidenced by his position title, which Prudential knew. As noted above,
 19 Light Field Lab did not imbue its Lead Production Engineer position, or grant to Mr. Perez
 20 specifically, any actual authority to act on its behalf. Mr. Perez did not hold himself out as having
 21 actual or apparent authority; and given Prudential's former dealings with Mr. Perez, and the
 22 Controller's signature on other documents, Prudential could not reasonably assume Mr. Perez had
 23 such authority.

24 39. After its June 2020 delivery at Plaintiff's offices, Prudential informed Light Field
 25 Lab that it could cancel the alleged Services Agreement with Prudential if it paid 50% of the
 26 average weekly cost of items – across the lifespan of a seven-year "contract."

27 40. In other words: Prudential had an unauthorized signature purportedly binding
 28

1 Plaintiff. Prudential then took no action for nearly four months. Then, Prudential suddenly
 2 delivered garments to Plaintiff's office, and when Plaintiff said it did not have a contract with
 3 Prudential, the latter offered Light Field Lab the opportunity to cancel if it paid a percentage of an
 4 84-week contract it never agreed to enter. In fact, Light Field Lab had just learned two weeks
 5 prior that any purported contract even existed.

6 41. When Plaintiff refused to be strong-armed, Prudential acted outside the contract to
 7 make a false claim that Light Field Lab was in breach of contract. Prudential then tried to use a
 8 collection agency to leverage payment. In fact, in its "Lost Business Report" dated January 4,
 9 2021, Prudential initially wrote that it received notice from Light Field Lab on June 22 ("~~06/22/~~"),
 10 and the terminal slash mark following the 22nd suggests a year would follow (e.g., 6/22/20). This
 11 date of June 22, 2020 tracks to the approximate timeframe of Prudential's erroneous delivery.
 12 However, in this Lost Business Report, Prudential then crossed out the June 22nd date ("~~06/22/~~")
 13 and replaced it with a date of October 12th ("10/12/20"). Prudential is thus fraudulently claiming
 14 Light Field Lab owes a debt through October. Importantly, during this entire course of events,
 15 Prudential knew that its alleged contract with Light Field Lab was – essentially and simply – a
 16 scam.

17 42. As a direct and proximate result of Prudential's fraud and deceit as alleged, Light
 18 Field Lab has incurred economic damages to be proven at trial.

19 43. Prudential was guilty of malice, oppression, and fraud; and therefore, Light Field
 20 Lab is entitled to recover punitive damages.

21
 22 WHEREFORE, Light Field Lab prays for judgment in its favor and against Defendant(s)
 23 as follows:

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Light Field Lab, Inc. prays for judgment as follows:

- 26 1. For compensatory damages according to proof;
- 27 2. For general damages according to proof;
- 28 3. For attorney's fees pursuant to contract and costs of suit;

4. For punitive damages;
5. For declaratory relief;
6. For injunctive relief against all Defendants and their agents, including the collection agency;
7. For such other and further relief as the court may deem proper.

Dated: March 31, 2021

BURKE, WILLIAMS & SORENSEN, LLP


By: 
Stephanie A. Vollmer
Patricia L. Peden
Attorneys for Plaintiff
Light Field Lab, Inc.

EXHIBIT F

Tavenner, Chapter 7 Trustee v. Light Field Lab, Inc. (20-03106)

United States Bankruptcy Court, E.D. Virginia

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Last Updated: Dec. 16, 2023, 12:36 a.m.

Assigned To: [Kevin R. Huennekens](#)

Citation: Tavenner, Chapter 7 Trustee v. Light Field Lab, Inc., 20-03106, (Bankr. E.D. Va.)

Date Filed: July 23, 2020

Date of Last Known Filing: Sept. 17, 2020

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Documents to

Document Number	Date Filed	Description		
1	Jul 23, 2020	Main Document	Complaint (fee)	Download PDF ▾
2	Jul 24, 2020	Main Document	Summons and Notice; LeClairRyan PLLC. AP cases ONLY	Buy on PACER
	Jul 24, 2020	none		
	Jul 24, 2020	Receipt of Adversary/Miscellaneous Proceeding Filing Fee		
5	Jul 31, 2020	Main Document	Certificate of Service	Buy on PACER
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re: LeClairRyan PLLC, ¹ Debtor	Case No. 19-34574-KRH Chapter 7
Lynn L. Tavenner, Chapter 7 Trustee, Plaintiff v. Light Field Lab, Inc., Defendant	Adv. Proc. No. 20-0____

**COMPLAINT FOR TURNOVER AND
RECOVERY OF AMOUNTS OWED**

Plaintiff, Lynn L. Tavenner, Trustee, and not individually but solely in her capacity as the Chapter 7 trustee (in such capacity, the “**Trustee**”) of the bankruptcy estate (the “**Estate**”) of LeClairRyan PLLC (“**LeClairRyan**” and/or the “**Debtor**”), in the above-referenced Chapter 7 case (the “**Bankruptcy Case**” and/or the “**Case**”) hereby by and through her undersigned counsel,

¹ The principal address of the Debtor as of the Petition Date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor’s federal tax identification number are 2451.

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David N. Tabakin, Esq. (Va. Bar No. 82709)
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Counsel to Lynn L. Tavenner, Chapter 7 Trustee

for her Complaint (the “**Complaint**”) against Light Field Lab, Inc. (the “**Defendant**”), alleges as follows:

NATURE OF THE ACTION

1. The Trustee brings this Complaint against Defendant to recover amounts due and owing from Defendant to the Estate, which amounts arise from the business relationship between the Debtor and Defendant.

THE PARTIES

2. Prior to the Petition Date (as defined below), the Debtor operated as a law firm and its related business. The Debtor operated its business from several states including Virginia, which was the location of its principal place of business. The Trustee is the duly appointed Chapter 7 trustee of the Debtor’s Estate, and the Trustee has the sole authority to pursue claims of the Estate.

3. Upon information and belief, Defendant is a corporation organized under the laws of the State of Delaware with a principal place of business of 699 East Brokaw Road, San Jose, California 95112. As part of the Debtor’s on-going business activities, Defendant retained the Debtor to perform legal work on behalf of the Defendant.

JURISDICTION AND VENUE

4. This Court has jurisdiction to consider this matter under 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984. Resolution of this matter by this Court is essential to the administration of this Estate. The Plaintiff confirms its consent, pursuant to Rule 7008 of the Bankruptcy Rules, to the entry of a final order by the Court in connection with this Complaint to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final

orders or judgments in connection herewith consistent with Article III of the United States Constitution.

5. This is a core proceeding under 28 U.S.C. § 157(b) including but not limited to § 157(b)(2)(A), (E) and (O).

6. Venue of this Chapter 7 Case and this adversary proceeding in this District and before this Court is proper under 28 U.S.C. §§ 1408 and 1409.

7. This Court has personal jurisdiction over all necessary parties pursuant to Rule 7004(f) of the Bankruptcy Rules

8. The statutory and legal predicates for the relief requested by the Complaint and 11 U.S.C. §§ 105, 541, and 542, and Bankruptcy Rule 7001.

RELEVANT FACTS

A. Case Background

9. On September 3, 2019 (the “**Petition Date**”), the Debtor filed for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “**Bankruptcy Code**”). Pursuant to §§ 1007 and 1108 of the Bankruptcy Code, the Debtor operated as a debtor-in-possession.

10. Per agreement between the Debtor, the United States Trustee, and ABL Alliance, LLLP (the “**Lender**”), the Debtor’s Bankruptcy Case was converted to a case under Chapter 7 of the Bankruptcy Code on October 4, 2019 (the “**Conversion Date**”).

11. Upon conversion, Lynn L. Tavenner was appointed interim trustee, and no trustee having been elected at the meeting of creditors, she continues to serve as Trustee. Consistent with

her duties of Estate administration, and pursuant to this Court's authority, the Trustee maintained portions of the operations of the Debtor's business to collect the Debtor law firm's receivables.

12. Prior to the Conversion Date, on the Petition Date, the Debtor had filed its *Motion of LeClairRyan PLLC for Entry of Interim Orders Approving Settlement Procedures for Compromising Accounts Receivable and Related Relief* (the "**Receivables Motion**"), ECF No. 8. Pursuant to the Receivables Motion, the Debtor requested authority to continue its relationship with On-Site Associates, LLC ("**On-Site**") to aid the Debtor in its collection of outstanding AR. Pursuant to the *Interim Order Approving Settlement Procedures for Compromising Accounts Receivable and Related Relief and Scheduling a Final Hearing* (the "**Interim Receivables Motion Order**"), ECF No. 51, this Court granted the relief sought in the Receivables Motion on an interim basis. Following the Conversion Date and her appointment, the Trustee, after consultation with the Lender, requested certain modifications to the proposed final order at a hearing held on October 24, 2019. Thereafter this Court entered the *Final Order Approving Settlement Procedures for Compromising Accounts Receivable and Related Relief* (with the Interim Receivables Motion Order, the "**AR Settlement Orders**"), ECF No. 95.

13. On February 11, 2020, the Trustee, through counsel, filed her *Motion for an Order Establishing Procedures Regarding the Collection of Accounts Receivable and Memorandum in Support Thereof* (the "**AR Procedures Motion**"). ECF No. 343. This Court subsequently approved the AR Procedures Motion and entered the *Order Approving Procedures and Permitting Trustee to Prosecute and Compromise AR Actions* (the "**AR Procedures Order**"), ECF No. 386.

14. Pursuant to the authority granted her in §§ 105, 541, and 542 of the Bankruptcy Code as well as the AR Procedures Order and the AR Settlement Orders, the Trustee, through

counsel, brings this Complaint against Defendant in order to collect amounts due and owing from the Defendant to the Estate.

B. Business Relationship Between the Debtor and the Defendant

15. Prior to the Petition Date, the Debtor was a law firm providing legal services to clients. All such legal services concluded before the Conversion Date.

16. Prior to the Petition Date, Defendant retained the Debtor to provide legal services to the Defendant. The Debtor has invoiced Defendant for the fees and costs associated with the legal services provided; however, Defendant has not yet paid all amounts due and owing. Specifically, Defendant is liable to the Debtor for a total of \$30,903.43 (the “**Obligation**”) but, as of the date hereof, has refused to pay the Obligation. A break-down of the Obligation is attached hereto as **Exhibit A**.

C. The Trustee's Demand for Payment

17. In December of 2019, the Trustee sent a letter to Defendant demanding that Defendant remit the total amount of the Obligation to the Trustee (the “**Demand Letter**”).

18. Defendant did not remit payment or provide a satisfactory explanation as to why the amounts are not due and owing.

19. The Trustee believes, based on her review of the Debtor's books and records (which are now under her custody and control), that the Obligation is mature, due and owing to the Estate, and Defendant should immediately pay such amounts.

COUNT I
BREACH OF CONTRACT

20. The Trustee repeats and realleges each of the allegations set forth above as if fully set forth herein.

21. Defendant and the Debtor entered into an agreement whereby the Debtor agreed to provide legal services to the Defendant in exchange for which the Defendant agreed to pay certain sums to the Debtor.

22. Despite the Debtor having provided the agreed upon legal services, the Defendant has failed to make payment to the Debtor for the amounts owed.

23. The Trustee made a demand for payment of the Obligation to Defendant; however, Defendant has failed or refused to pay.

24. The Estate has been damaged by the Defendant's refusal to pay for said legal services in an amount not less than the Obligation.

25. The Trustee, on behalf of the Estate, is entitled to judgment against the Defendant in an amount not less than the Obligation plus attorney's fees and costs associated with collection of the same.

COUNT II
TURNOVER OF PROPERTY OF
THE ESTATE PURSUANT TO 11 U.S.C. § 542

26. The Trustee repeats and realleges each of the allegations set forth above as if fully set forth herein.

27. The Obligation is an obligation owed to the Debtor, which constitutes property of the Estate under § 541 of the Bankruptcy Code.

28. The Obligation has matured and is payable on demand.

29. The Trustee made a demand for payment of the Obligation to Defendant; however, Defendant has failed or refused to pay.

30. Defendant knew or should have known that the Obligation was property belonging to the Debtor and now, the Estate, but failed to turn over such amounts as required by § 542 of the Bankruptcy Code.

31. The Trustee is entitled to recover the full amount of the Obligation pursuant to § 542(b) of the Bankruptcy Code.

32. The Court may determine the contractual liability and require the Defendant to turn over the funds represented by the Obligation.

PRAYER FOR RELIEF

WHEREFORE, the Trustee respectfully requests and prays that the Court:

A. Award the Trustee, on behalf of the Estate, judgment against the Defendant in an amount not less than the Obligation plus attorneys' fees, costs, and interest associated with the same (the "**Judgment**");

B. Compel Defendant to turnover to the Trustee for the benefit of the Estate the Obligation as well as other amounts included in the Judgment; and

C. Grant such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

LYNN L. TAVENNER, CHAPTER 7 TRUSTEE

Dated: July 23, 2020
Richmond, Virginia

By: /s/ Paula S. Beran
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FROM CASE 20-03106-KRH
NOT AN EXHIBIT HEADER
IN 4:23-CV-05344-YGR

EXHIBIT A

Matter No.	Matter Name	Invoice No.	Invoice Date	Total Billed	Balance
0001	General	885864	8/15/2019	\$30,903.43	\$30,903.43
	Matter Totals			\$30,903.43	\$30,903.43